

David H. Coburn
202.429.8063
dcoburn@steptoe.com

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
Tel 202.429.3000
Fax 202.429.3902
steptoe.com

April 20, 2005

Via Hand Delivery

Mr. Kenneth H. Blodgett
Environmental Protection Specialist
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

2005 APR 20 2 11:51
COURT

Re: **Tongue River Railroad Company, Inc. - Finance Docket 31086 (Sub-No. 3) -
Construction and Operation of the Western Alignment - Draft
Supplemental Environmental Impact Statement**

Dear Mr. Blodgett:

This will provide additional information for SEA's consideration in connection with three separate issues raised in the comments filed in this proceeding. The issues addressed here concern (a) access to water for construction of the line; (b) location of construction camps and (c) an assessment of a so-called "hybrid" alternative that would consist in part of the Western Alignment and in part of the Four Mile Creek Alternative.

A. Water Access

A question has been raised about how TRRC might obtain additional water resources should this be needed during construction of the line. The DEIS properly notes, at page 4-115, that water usage is likely to be low relative to the amount of water available from the Tongue River. The volume of water required would range from about 0.25 percent of the annual discharge from the dam (for the Western Alignment) to about 0.13 percent (for the Four Mile Creek Alternative.)

Water for constructing the TRRC line will be obtained according to the water allocation process established by Montana's Water Use Act of 1973, which is administered by the Montana Department of Natural Resources and Conservation ("MTDNRC"). An application for ground water in excess of 35 GPM or 10 Acre-Feet per year and all surface water appropriations must be submitted to MTDNRC on Form No. 600, Application for Beneficial Water Use Permit, and through a Criteria Addendum A

Application for a beneficial water use permit for appropriations of less than 5.5 CFS and 4,000 acre-feet.¹

Application requirements of Form No. 600 include the following: name of applicant; source of water supply; point of diversion(s); means of diversion; reservoir(s); period of appropriation; proposed beneficial use; place(s) of use; flow rate, volume, purpose of use, and period of use; proposed completion period; location map; contact information; and, an affidavit.

According to MCA Section 85-2-311(1), the MTDNRC shall approve a water use permit for an appropriation of less than 5.5 CFS and 4,000 AC-FT of water if the applicant proves by a preponderance of evidence that the criteria listed below and submitted as part of a "Criteria Addendum A" Application are met by the applicant.

1. substantial, credible information to prove there is water physically available at the proposed point of diversion in the amount being sought for appropriation;
2. substantial, credible information or data to prove water is legally available during the period and in the amount requested;
3. substantial, credible information to prove the proposed use of water will not adversely affect a prior appropriator using an existing water right, a certificate, a permit, or a state water reservation;
4. description of the proposed means of diversion, construction, and operation of the diversion works intended to be used and presentation of substantial, credible information to prove the means of diversion, construction and operation are adequate; and,
5. substantial, credible information and data to prove the proposed use is a beneficial use of water and the flow rate and volume requested is reasonable.

The Criteria Addendum A application is also to include a general project plan and timeline for purchasing and installing equipment, the anticipated completion date, and a description of when and how much water will be put to beneficial use.

The information necessary to apply for beneficial use of water to construct the TRRC line will be developed during the final engineering and design process. The appropriate application for beneficial use of water will be completed and submitted to the MTDNRC for processing and approval. Further, to the extent feasible and necessary, TRRC will also explore purchasing water from various sources that may have available water, as noted at page 4-115 of the DEIS.

¹ More information on the Water permitting process is available on the MTDNRC website at <http://www.dnrc.state.mt.us/wrd/home.htm>.

B. Construction Camps

The second point on which we offer a response to comments concerns the location of construction camps. At this time, TRRC does not know the specific locations for the camps. It is anticipated that a primary construction camp will be located in or near Ashland on approximately 10 acres and a smaller construction camp will be located at the southern end of railroad near the connection with Spring Creek mine spur on approximately 5 acres. The land for the construction camps will be leased from area property owner(s) based on terms acceptable to the landowner(s). All construction camp structures will be temporary and no permanent foundations will be required. The construction camps will be self contained and all solid and sanitary waste will be collected and transported to a licensed landfill or sewage treatment facility.

The exact final location, size, and makeup of such camp(s) are dependent on final engineering and landowner negotiation. The camps will be situated in an acceptable location, i.e., subject to successful negotiation and agreement with the necessary landowner(s). Following completion of the railroad construction, both camp areas will be cleaned up, reclaimed and restored pursuant to the agreement(s) with the individual landowner(s).

C. Hybrid Alignment

The last point on which we offer information concerns the viability of a proposed "hybrid" route consisting of the upper portion of the Western Alternative, where S566 crosses the Tongue River, and the lower portion of the Four Mile Creek Alternative. There are several serious problems that make such an alternative infeasible. In fact, as described further below, the hybrid alternative would result in the same operational, maintenance, safety and other problems that resulted in the Western Alignment being proposed. The information offered in this section was provided by Mr. Dan Hadley of Mission Engineering, Inc., a consultant to TRRC.

First, due to the fact that the Western Alignment and the Four Mile Alternative Alignment are essentially perpendicular to each other at the point they would intersect, a sharp 3 degree curve (radius = 1910 ft), would be required to connect the two alignments. This "sharp 3 degree curve" would be located at the bottom of the very steep 2.31% grade profile of the Four Mile Alternative Alignment. The sharp curve and steep grade creates a much higher probability for train derailments at the mouth of Four Mile Creek as it enters the Tongue River.

Second, combining the two alignments would require a longer, higher, skewed crossing by the hybrid alignment of the Four Mile Creek drainage on a sharp curve. The drainage crossing would need to be approximately 2,200 feet long with a 120 foot high fill. By contrast, the proposed Western Alignment would cross the Four Mile Creek drainage perpendicularly. That crossing would be approximately 800 feet long, with a 60 ft. high bridge. Thus, impacts on the drainage from the Western Alignment would be less than the impacts of the hybrid alignment crossing.

In addition to the increased amount of fill across the Four Mile drainage (approximately 1.7 million cubic yards), the addition of increased curvature on very steep grades greatly reduces the safety and operational characteristics of the TRRC line. It should be noted that this hybrid alignment would not meet the present design requirements for "Unit Trains" operated by the major rail companies.

In this regard, Pg 4-138, DSEIS states as follows:

"Loss of Train Control. TRRC proposes the following design criteria to ensure the safe operation of unit coal trains of 115 to 125 cars with design speeds between 45 and 55 mph. These design criteria are as stringent as, or more stringent than, the criteria established by the American Railway Engineering and Maintenance-of-Way Association:

- Maximum horizontal curvature of three degrees;
- Minimum tangent distance between horizontal curves of 200 feet;
- Maximum grade against empties of 1 percent, compensated for curvature;
- Maximum grade against loads of 0.50 percent;
- Maximum vertical curvature of 0.05 feet per 100 feet in sags and 0.10 feet per 100 feet at summits."

The proposed Western Alignment meets these design criteria; therefore, a loss of train control would not be likely. However, from the Spring Creek Spur connection to the top of the Four Mile drainage, the Four Mile Creek Alternative alignment, and the Four Mile Creek/Western Alignment hybrid alignment, would have adverse grades (against loads) in excess of 1.53 percent. Specifically, loaded coal trains would have to climb 648 feet with varying adverse grades from 0.594 percent to 1.533 percent over a distance of 13.07 miles. After the alignment would reach the top of the Four Mile Creek drainage, it would then descend 828 feet along Four Mile Creek. In this loaded coal train descent there would be 3.18 miles of a descending 2.31 percent grade. Therefore, there would be a much greater probability of losing control of a train with the Four Mile Creek Alternative or the Four Mile Creek/Western Alignment hybrid alignment than with the proposed Western Alignment.

In addition, the steeper grades of the Four Mile Creek Alternative and Four Mile Creek/Western Alignment hybrid alignment would require complicated operations to comply with safety requirements associated with train control, as well as result in much higher long-term maintenance and operating costs as compared to the Western Alignment. The higher maintenance and operating costs associated with the Four Mile Creek Alternative are addressed in the Verified Statement of Robert Leilich, submitted with TRRC's April 27, 1998 Application in this proceeding. To a significant degree, these same higher costs would apply to the hybrid alignment.

Mr. Kenneth H. Blodgett

April 20, 2005

Page 5

The following points also bear note:

- ⇒ The Four Mile Creek Alternative and Four Mile Creek/Western Alignment hybrid alignment are approximately 1.7 times longer than the Western Alignment
- ⇒ The Four Mile Creek Alternative and Four Mile Creek/Western Alignment hybrid elevation climb for loaded trains is more than 10 times greater than the Western Alignment
- ⇒ The Four Mile Creek Alternative and Four Mile Creek/Western Alignment hybrid alignment maximum climbing grades are nearly 4 times as steep for ascending trains than the Western Alignment
- ⇒ The Four Mile Creek Alternative and Four Mile Creek/Western Alignment hybrid alignment maximum grades are 2.5 times as steep for descending trains than the Western Alignment
- ⇒ The Four Mile Creek Alternative and Four Mile Creek/Western Alignment hybrid alignment have more public road crossings than the Western Alignment
- ⇒ The Four Mile Creek Alternative and Four Mile Creek/Western Alignment hybrid require 13.8% and 27.2% more land respectively for right of way than the Western Alignment

In proposing the Western Alignment, the TRRC sought to reduce the environmental impacts, improve operating and maintenance characteristics, and remove safety concerns resulting from the steep grades and the associated potential for loss of train control associated with operating on the Four Mile Creek Alternative alignment. The hybrid alignment described here would undermine, if not entirely defeat, the goals sought to be attained through design of the Western Alignment, and would recreate most of the operational, safety and other disadvantageous of the Four Mile Creek Alternative. The summary of the three alternatives set forth below, together with the information supplied above, underscores this point:

	<u>Western Alignment</u>	<u>Four Mile Alternative</u>	<u>Hybrid</u>
Length (miles)	17.3	29.4	28.7
Climb for loaded train	64 ft.	694 ft.	694 ft.
Max. climbing grade for loaded trains	0.4%	1.53%	1.53%
Max. descending grade for loaded trains	0.93%	2.31%	2.31%
# of Public road crossings	4	7	8
Amount of r-o-w required	672 acres	765 acres	855 acres

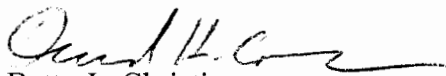
Mr. Kenneth H. Blodgett
April 20, 2005
Page 6

Est. Construction cost	\$108.9mm	\$95.17mm	\$102.6mm
Homes displaced	0	2	2
Est. Volume of earth moved	17.3 mm cu/yds	10.3 mm cu/yds	12.6 mm cu/yds
River bridge crossings	1	1	1
Round trip (Miles City to Decker) fuel consumption	1,826 gallons	2,798 gallons	2,798 gallons

For all of these reasons, we do not believe that the hybrid alternative is feasible or practical, and strongly urge that it not be given further consideration as an alternative in this proceeding.

Please let us know if you have any questions concerning any of these matters.

Sincerely,



Betty Jo Christian
David H. Coburn
Attorneys for Tongue River
Railroad Company, Inc.

cc: Ms. Victoria Rutson
Mr. Scott Steinwert
Mr. Douglas Day